

REMARKS

By the response, claims 27, 28, 30-38, 40, 54, 56-65 and 67 are pending in the present application. Claims 27, 35, 56, and 62 are the independent claims. Claims 1-26, 29, 39, 41-53, 55 and 66 were previously cancelled.

Response to the Examiner's Request for Explanation and/or Clarifications

On pages 12 and 13 of the Office Action the Examiner responds to the Applicant's arguments filed May 20, 2009. The Examiner contends that the Applicant's discussions of the terms "control information" and "copy protection information" could not be found in the specification. Particularly, the Examiner argues that paragraphs [0008] and [0078] allegedly did not contain relevant information or did not exist.

The Applicant explicitly stated that in the response May 20, 2009 the paragraph numbering cited corresponded to the numbering of paragraphs as numbered in the published application. Paragraph [0008] in the published application is paragraph [0006] of the as-filed application. Paragraph [0078] of the published application is paragraph [0067] of the as-filed application. Therefore, the Examiner's contention that paragraph [0078] doesn't exist appears to be rooted in confusion between paragraph numbering between the as-filed application and the published application. The Applicant has provided the paragraph numbers as mentioned above for both the as-filed application and the as-published application to alleviate the Examiner's confusion. The Applicant further makes the following comment.

The "control information" as recited in the claims may correspond in some embodiments to "disc information" as recited in portions of the specification. The Applicant notes that in paragraph [0017] of the as-filed application (paragraph [0019] as numbered in the published application) it is written "... capable of rapidly detecting

disc information required for reproducing the contents recoded thereon ...” In addition, the embodiment shown in FIG. 4D and paragraph [0073] as numbered in the as-filed application (paragraph [0084] as numbered in the published application publication) describe the feature that the area of the disc information can be separated from the area of the copy protection information. As such, the Applicant contends that the feature “first area for storing control information required basically for recording or reproducing user data” is supported by the specification of the present application at least in the cited portions of the specification mentioned above. Other portions of the specification and/or figures may also support the above quoted portion of claim 1. If the Examiner has any further questions regarding this matter, the Applicant respectfully requests that the Examiner contact the undersigned below by telephone at the number listed below.

REJECTIONS UNDER 35 U.S.C. §103

Claims 27, 28, 30-38, 40, 54, 56-65, and 67 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,289,102 to Ueda et al. (“Ueda”) and further in view of U.S. Patent 5,737,286 to Timmermans et al. (“Timmermans”). The Applicant respectfully traverses these rejections.

According to the new Examination Guidelines for Determining Obviousness under 35 U.S.C. § 103 in view of the Supreme Court decision of *KSR International, Co. v. Teleflex, Inc.* it is stated that the proper analysis for a determination of obviousness is whether the claimed invention would have been obvious to one of ordinary skill in the art after consideration of all the facts. The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reasons why the claimed invention would have been obvious. An Office Action must explain why the differences between

the prior art and the claimed invention would have been obvious to one of ordinary skill in the art. See 72 Fed. Reg. 57526, 57528-529 (Oct. 10, 2007).

The Applicant respectfully asserts that neither Ueda nor Timmermans, either separately or in combination, teach, suggest, or otherwise render obvious all of the limitations set forth in the claims. Further, there has been no clear articulation why one skilled in the art would find the differences between the prior art and the claims obvious.

For example, independent claim 27 recites a recording medium including, among other things, a “data structure of the copy protection information in a first specific data unit is different from data structure of the copy protection information in a second specific data unit.” The Applicant respectfully asserts that the cited references taken separately or in combination do not teach, suggest, or otherwise render obvious the above quoted portion of claim 27.

The Applicant notes that the Office Action on pages 3, 5, 8, 10, and 14 asserts that Ueda at FIG. 10, col. 14, lns. 19-25; col. 7, lns. 31-38; and col. 13, lns. 23-32 describe the above quoted feature of claim 27. The Applicant respectfully disagrees and asserts that this is based on a misreading of Ueda.

Ueda, in FIGS. 11 and 13 and the corresponding paragraphs in the specification related to FIGS. 11 and 13, describes embodiments in which data is recorded and scrambled. The data structures for the scrambled data blocks are also described. In Ueda, it is described that a seed key or a title key is recorded in each scrambled sector of the data area (see for example FIGS. 11 and 13). However, there is no description that the structures of the scrambled sectors are different from each other. In particular, Ueda does not describe that the structure of the field including a seed (or title) key in one scrambled sector is different from the structure of the field including a seed key and another scrambled sector.

Rather, in Ueda, a plurality of seed keys or title keys are recorded in the lead-in area as scramble information (see, for example, FIGS. 10 and 11 and corresponding discussion in the specification). The seed keys may be different from each other in their values, but the structures of the seed keys are not different from each other.

The Examiner throughout the Office Action has asserted that FIG. 10, which illustrates scramble information, indicates scrambled sectors have different data structures (i.e., different scrambled seed value). As asserted by the Office Action, the value of the “seed key” in FIG. 11 identified at part (e) or of the “title key” as shown in FIG. 13 identified at part (e) may be different sector by sector. However, the value of the “seed key” or the “title key” being the same is not what is recited in the claim.

Rather, the claim recites that the “data structure of the copy protection information in a first specific unit is different from data structure of the copy protection information in a second specific data unit.” If the data structures of Ueda were different from each other, it would mean that Ueda’s modulation method, format, shape or frame of data units are different from each other. It does not mean that the value of one data unit is different from the value of another data unit.

In Ueda, the structure of the seed field in one scrambled sector, for example FIG. 11(e), is not different from the structure of the seed field in another scrambled sector. Therefore, in Ueda there is no teaching, suggestion, or otherwise rendering obvious the feature of claim 27 of the “data structure of the copy protection information in a first specific data unit is different from data structure of the copy protection information in a second specific data unit.”

Timmermans does not cure the insufficiencies of Ueda nor is it alleged to. For at least these reasons, the Applicant respectfully asserts that not all of the features of independent claim 27 are taught, suggested or otherwise rendered obvious by the cited references. Therefore, a *prima facie* case of obviousness has not been made.

Thus, the Applicant respectfully requests that the rejections under 35 U.S.C. 103(a) of claim 27 and its corresponding dependent claims be removed.

The Applicant notes that the remaining independent claims, claims 35, 56, and 62 recite language similar to that quoted and discussed above with respect to independent claim 27. Therefore, the Applicant respectfully asserts that the combination of Ueda and Timmermans likewise fails to teach, suggest, or otherwise render obvious all of the features recited in independent claims 35, 56, and 62 and their corresponding dependent claims. The Applicant respectfully requests that the rejections under 35 U.S.C. § 103(a) of independent claims 35, 56, and 62 and their corresponding dependent claims be removed.

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CONCLUSION


Accordingly, in view of the above remarks, reconsideration of the objections and rejections and allowance of each of claims 27, 28, 30-38, 40, 54, 56-65 and 67 in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. §1.17; particularly, extension of time fees.

Respectfully submitted,

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